REMARKS

I. Introduction

In response to the Office Action dated March 20, 2006, claims 2, 8, 9, 15, 21, 22, 28, 34, and 35 have been cancelled, claims 1, 10, 12, 13, 14, 23, 25, 26, 27, 36, 38, and 39 have been amended. Claims 1, 3-7, 10-14, 16-20, 23-27, 29-33, and 36-39 remain in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Claim Objections

In paragraph (3) of the Office Action, claims 3, 16, and 29 were objected to for failing to further limit the subject matter of the previous claim. Applicants respectfully disagree. Namely, the claims on which claims 3, 16, and 29 depend on do not provide for pinging a host where the information is stored from across the network connection. Thus, the claims add further limitations. Accordingly, Applicants respectfully request withdrawal of the objections.

Claims 34, 36, 38, and 39 were objected to for various informalities. Applicants have amended these claims and submit that the objections are now moot.

III. Prior Art Rejections

In paragraphs (4)-(5) of the Office Action, claims 1, 4-7, 9, 12-14, 17-20, 22, 25-27, 30-33, and 39 were rejected under 35 U.S.C. §103(a) as being unpatentable over Burman et al. (Burman), U.S. Publication No. 2001/0010059, in view of Merriam, U.S. Publication No. 2004/0153792.

In paragraph (6) of the Office Action, claims 10, 11, 23, 24, and 36-38 were rejected under 35 U.S.C. §013(a) as being unpatentable over Burman, in view of Merriam, and further in view of Harter et al. (Harter), U.S. Patent No. 6,212,564.

Specifically, claims 1, 14, and 27 were rejected as follows:

> As to claims 1, 14, and 27, Burman teaches a computer-implemented method for obtaining information across a network comprising: (a) determining a speed of a network connection to which a computer is attached by (i) a client transmitting a request, across the network connection, to a calibrated object library on a server, for an object of pre-known size and properties (see page 6, paragraph [0066], the user's browser to fetch or request an image by sending a fetch image request) ii) obtaining the object of the pre-known size and properties from across the network connection (see page 6, paragraph [0070], the receipt by the user's browser of a fetch image request) and measuring a round-trip response time calculated from the transmitting of the request to completion of the

obtaining from across the network connection (see page 7, paragraph [0070], this measured time will closely approximate the round-tip transfer time between the user's computer or browser and the server from which the image during the step 114 was served) and (b) obtaining information from across the network connection based on the speed of the network connection wherein (i) a size of the information to be obtained decreased as the speed of the network connection decreases (see page 8, paragraph [0079], once the transfer time and/or bandwidth (the term "bandwidth shall also encompass the concept of "effective bandwidth"), if the transfer time between the server and the user's computer is short enough or the user's bandwidth for the connection between the server and the user's computer is short enough or the user's bandwidth for he connection between the server and the user's computer is large enough, the user may be connected via a high bandwidth network to the server. Therefore, rich media files may be sent to the user's computer without requiring significant amounts of time. In contrast, if the transfer time between the server and the user's computer is sufficiently long or the bandwidth for the connection between the user's computer and the serve is too small, the user may be connected via a low bandwidth network to the server. Therefore, it may be preferable to send only smaller files in response to image request signals generated by the user's browser). (ii) the information is obtained across the network connection from one or more object libraries that maintain the information in various sizes (see page 4, paragraph [0036].

Merriam teaches obtaining the object of the pre-known size and properties from across the network connection; and measuring a round-trip response time calculated form the transmitting of the request to completion of the obtaining of the object form across the network connection without delays (see page 4, paragraph [0040]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Merriam in the claimed invention of Burman in order to allow a technician to determine problems associated with the network (see page 4, paragraph [0040]).

Applicant traverses the above rejections for one or more of the following reasons:

(1) Neither Burman nor Merriam teach, disclose or suggest an adaptive agent on a client intercepting and delaying the transmission of a client request to a server; and

(2) Neither Burman, Merriam, nor Harter teach, disclose or suggest an adaptive agent issuing its own network request for a particular object to determine a network speed and later taking the client request out of delay.

Independent claims 1, 14, and 27 are generally directed to obtaining information across a network based on a speed of the network connection (wherein the size of the information decreases as the speed of the network decreases). To accommodate the different sizes of information to be obtained, the claims provide the ability to determine the speed of the network connection in a specific manner. In this regard, a calibrated object library on a server is used.

The client first makes a request for an object. However, an adaptive agent on the client intercepts and delays the client request. The adaptive agent then issues its own network request, across the network connection, to the calibrated object library on the server, for an object of a pre-known size and properties. Once requested, the requested object is obtained/transmitted back to

the adaptive agent across the network connection. The adaptive agent determines the speed of the network which is based on a measurement of the round-trip response time calculated from the transmitting of the request for the object (i.e., from the adaptive agent) to completion of obtaining the object from across the network connection (from the server).

In addition to the above, the claims have been amended to indicate that once the speed of the network connection has been determined by the adaptive agent, the adaptive agent released the client's original request from delay and forwards the request to the server across the network connection. Such a client request is received and transmitted back from a set of object libraries that maintain the information in various sizes. In this regard, as the speed of the network connection decreases, the size of the information requested from the object libraries decreases.

The cited references do not teach nor suggest these various elements of Applicant's independent claims.

The Office Action relies on Burman for the majority of the claim elements. Applicants note that Burman provides for a specific sequence of events as set forth in FIG. 2. First, a client sends a web page request. The web page is then served back to the client. In the web page is a link or reference to a rich media file. The client thus makes a request from the rich media file from an ad selection server. The ad selection server then forwards the rich media file back to the client. The client then executes the rich media file. During execution of the rich media file, a clock/timer is started, and the browser sends a fetch image request to the ad selection server (or other server specified by the user's browser). The server receiving the request from the browser sends the requested image back to the user's browser which then stops the clock/timer. The browser is then able to determine the round trip response time for receiving the image. Thereafter, additional content sent or served from a server to the user's computer is selected or not selected based on the transfer time. (See paragraphs [0047]-[0079] and Fig. 2).

However, what is notoriously absent from Burman is the use of an adaptive agent on the client. Further, what is missing from Burman is the description of an adaptive agent that intercepts and delays a request from a client while performing its own network request. In this regard, Burman completely fails to teach, disclose, or suggest, explicitly or implicitly, the use of an adaptive agent that independently determines the network connection speed and then releases the client's request after the connection speed has been determined. Instead, Burman describes the use of a browser to

perform all of the requests without any delays occurring. In this regard, the present invention claims clear differences from that set forth in Burman. Further, Burman completely and entirely fails to describe any intercepting or delay of a client request.

In view of the above, Applicants submit that there are clear differences between the presently claimed invention and the cited art. Further, the remaining cited art fails to cure Burman's deficiencies.

Moreover, the various elements of Applicant's claimed invention together provide operational advantages over Burman, Merriam, and Harter. In addition, Applicant's invention solves problems not recognized by Burman, Merriam, and Harter.

Thus, Applicant submits that independent claims 1, 14, and 27 are allowable over Burman, Merriam, and Harter. Further, dependent claims 3-7, 9-13, 16-20, 22-26, 29-34, and 36-39 are submitted to be allowable over Burman, Merriam, and Harter in the same manner, because they are dependent on independent claims 1, 14, and 27, respectively, and thus contain all the limitations of the independent claims. In addition, dependent claims 3-7, 9-13, 16-20, 22-26, 29-34, and 36-39 recite additional novel elements not shown by Burman, Merriam, and Harter.

IV. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Respectfully submitted,

GATES & COOPER LLP
Attorneys for Applicant(s)

Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, California 90045
(310) 641-8797

Date: June 20, 2006

By: _____
Name: Jason S. Feldmar
Reg. No.: 39,187

JSF/

G&C 30695.21-US-U1